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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,854	03/17/2004	Michael G. Zais	2549-113-27	1972
7590	07/23/2007		EXAMINER	
STEVEN B KELBER JAGTIANI + GUTTAG 10363-A DEMOCRACY LANE FAIRFAX, VA 22030			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3781	
			MAIL DATE	DELIVERY MODE
			07/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/801,854	ZAIS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Harry A. Grosso	3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 May 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 4/17/07 and 5/4/07 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Drawings*

1. The objection to Figures 6 and 7 has been overcome by the amendment filed May 4, 2007. The objection is withdrawn.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 10-12, 15, 20-23 and 25-27 are rejected under 35 U.S.C. 102(a and e) as being anticipated by Bolzer et al (2003/0136789 A1, July 24, 2003) (Bolzer).

4. Regarding claim 1, Bolzer discloses an underground storage system with a tank (12, Figures 1-6) with a collar having an inward flange as seen in Figure 1 (paragraph 0024), a riser (upper part 16 in Figure 2, right side) and an adapter (lower part 16 in Figure 2, right side). The adapter mates with the collar and connects the collar to the riser. The adapter top has an inward flange as seen below the lead line for 108 in Figure 2 and the riser has an inwardly projecting flange (102) that is shown in Figure 4.

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5. Regarding claim 10, Bolzer provides the structural components as discussed in paragraph 4 above and the method of installing as illustrated in Figures 2 to 6 and discussed in paragraphs 0029 and 0030.

6. Regarding claim 20, Bolzer discloses a flange collar adapter with a lower portion adapted to mate with an attached collar of the tank and having an inwardly projecting flange sized to mate with an inwardly projecting riser flange as seen below the lead line for 108 in Figure 2.

7. Regarding claim 21, Bolzer discloses an underground storage system with a tank having a collar (Figure 1) with a top having an inward flange and a riser (16, Figure 2, left side) having an annular inwardly projecting flange (102 in Figure 4).

8. Regarding claim 25, Bolzer discloses the structural elements of the storage system as discussed in paragraph 4 above and the method as disclosed in Figures 2-6 and paragraphs 0029 and 0030. The collar is attached to the tank and has a bottom where it is attached to the tank and a top where the flange is located.

9. Regarding claims 2, 11, 22 and 26, the tank has a manway (paragraph 0024).

10. Regarding claims 3, 12, 23 and 27, the system has a plurality of fasteners to secure the adapter flange to the riser flange with a plurality of holes being formed in the flanges by application of the fasteners (paragraphs 0011 and 0025).

11. Regarding claim 15, Bolzer discloses the adapter can be attached before the tank is positioned below ground as seen in paragraph 0029 where assembly 10 includes the adapter and riser components.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolzer. Bolzer discloses the claimed invention except for the collar and the riser being made of different materials. It would have been an obvious matter of design choice to make the collar and the riser of different materials, since applicant has not disclosed that making the collar and the riser of different materials solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the collar and the riser made of the same or different materials. Additionally, Bolzer would be capable of having the collar and the riser made of different materials since Bolzer specifies that the tank of which the collar is an integral part and the riser are made from synthetic resin materials but does not specify they are the same material.

14. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolzer in view of Pugnale et al (4,639,164). Bolzer discloses the invention except for the double walled pipe. Pugnale et al discloses a storage system with a double walled pipe system for connecting inner outlet pipes (37, 38) to the tank through the riser that provides a means for capturing leakage from the outlet pipe and returning it to the tank through the outer pipes. It would have been obvious to one of ordinary skill in the art at

the time the invention was made to have incorporated the use of a double wall pipe system as disclosed by Pugnale et al in the system disclosed by Bolzer to provide outlet pipes with a method of capturing any underground leakage from the outlet pipes.

15. Claims 5-9, 14 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolzer in view of Schneider (4,936,705).

16. Regarding claims 5 and 14, Bolzer discloses the invention except for the tank being a double walled tank. Schneider discloses an underground tank system with a double walled tank in order to provide a leak detection reservoir on the outside of the tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a double walled tank as disclosed by Schneider in the system disclosed by Bolzer to provide a leak detection reservoir on the outside of the tank.

17. Regarding claims 6 and 16, Bolzer discloses a tank made from synthetic resin and Schneider discloses a tank made from FRP. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of FRP as disclosed by Schneider in the tank disclosed by Bolzer since it is known in the art to use FRP for underground tanks.

Bolzer discloses the adapter is made of a synthetic resin material but does not specify the material is FRP. It would have been an obvious matter of design choice to make the adaptor of FRP, since applicant has not disclosed that making the adaptor of FRP solves any stated problem or is for any particular purpose. It appears that the invention would perform equally well with the adaptor made from a synthetic resin

material other than FRP. Additionally, the adaptor of Bolzer would be capable of being made from FRP since Bolzer specifies only a synthetic resin material.

18. Regarding claims 7 and 17, Bolzer discloses the riser is made of a synthetic resin material but does not specify the material is FRP. It would have been an obvious matter of design choice to make the riser of FRP, since applicant has not disclosed that making the riser of FRP solves any stated problem or is for any particular purpose. It appears that the invention would perform equally well with the riser made from a synthetic resin material other than FRP. Additionally, the riser of Bolzer would be capable of being made from FRP since Bolzer specifies only a synthetic resin material.

19. Regarding claims 8 and 18, Bolzer discloses the riser is made of a synthetic resin material but does not specify the material is polypropylene. It would have been an obvious matter of design choice to make the riser of polypropylene, since applicant has not disclosed that making the riser of polypropylene solves any stated problem or is for any particular purpose. It appears that the invention would perform equally well with the riser made from a synthetic resin material other than polypropylene. Additionally, the riser of Bolzer would be capable of being made from polypropylene since Bolzer specifies only a synthetic resin material.

20. Regarding claims 9 and 19, Bolzer discloses the adapter and riser are made of a synthetic resin material but does not specify they are made from the same or different materials. It would have been an obvious matter of design choice to make the adapter and riser of different materials, since applicant has not disclosed that making the adapter and riser of different materials solves any stated problem or is for any particular

purpose. It appears that the invention would perform equally well with the adapter and riser made from either the same or different materials. Additionally, the adapter and riser of Bolzer would be capable of being made from different materials since Bolzer specifies only a synthetic resin material.

***Response to Arguments***

21. The declaration filed on May 4, 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Bolzer et al (2003/0136789) reference. The declaration alleges conception and reduction to practice prior to July 24, 2003. This does not overcome the effective date of the reference, January 23, 2002.

***Conclusion***

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

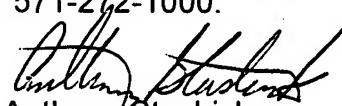
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-

4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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